

**MINUTES OF THE MEETING OF THE SUBDIVISION
AND DEVELOPMENT APPEAL BOARD
MONDAY, JULY 25, 2016 at 7:00 p.m.**

PRESENT: Members: C. Crozier, D. Kilpatrick,
B. Christian, V. Lutz, G. Shipley

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| Development Officer | B. Stehr |
| Director of Planning & Engineering | J. Johansen |
| Planning Consultant | D. Fleming |
| Recording Secretary | S. Simon |
| Appellant(s) | Michael Arnold |
| Appellant Legal Representative | Emma Alves, Stringam LLP |

ABSENT:

1. CALL TO ORDER

Recording Secretary called the appeal hearing to order at 7:00 p.m., confirmed there was a quorum present to hear this appeal; and opened nominations for Chairman.

2. ELECTION OF CHAIRMAN

V. Lutz nominated D. Kilpatrick to be Chairman, seconded by B. Cristian. D. Kilpatrick accepted and assumed control of the appeal hearing.

The recording secretary advised the Board Members she has received correspondence from the Appellants legal representation requesting an adjournment of the hearing to a later date. The Board reviewed the correspondence dated July 14, 2016 and July 25, 2016.

B. Christian moved the Appeal of Stop Order with respect to the Conditions of Development Permit 15 DP 060 be adjourned to August 17, 2016 at 7:00 p.m. – Carried.

C. Crozier moved the meeting be adjourned at 7:12 p.m. – Carried.

WEDNESDAY AUGUST 17, 2016 at 7:00 p.m.

PRESENT: Members: C. Crozier, D. Kilpatrick,
B. Christian, V. Lutz, G. Shipley

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| Development Officer | B. Stehr |
| Director of Planning & Engineering | J. Johansen |
| Planning Consultant | D. Fleming |
| Recording Secretary | S. Simon |

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| Appellant(s) | Michael & Tiffany Arnold |
| Appellant Legal Representative | Emma Alves, Stringam LLP |

Chairman Kilpatrick reconvened the meeting on August 17, 2016 at 7:00 p.m.

3. Review of rules of Appeal of a Stop Order - Planning Consultant

Doug Fleming, Planning Consultant Scheffer Andrew Ltd provided Board members with a brief review on the duties of the Subdivision & Development Appeal Board and a review of the rules of appeals concerning stop orders.

**4. Appeal of Stop Order issued with respect to the Conditions of
Development Permit 15-DP-060
Lot 36-40, Block 47, Plan 1117V (232 - 6 Street SE)
(Height of fence constructed in front yard)**

a) Presentation of Appellant

Emma Alves, legal representation for Michael and Tiffany Arnold indicated they did not realize the appeal timeframes when the first permit was issued. Ms. Alves referenced the letter from Michael and Tiffany Arnold stating the reasons for wanting the over height fence. Ms. Alves further commented that the property was converted from a catholic church to a four plex and the only space for a yard is on the 6th street side. Ms. Alves also commented that the Arnold's are looking to have the address of the property changed to a 3rd Avenue Address.

Ms. Alves argued that contrary to the Planning Consultant's advice that the Subdivision and Development Appeal Board (SDAB) does have the power under the rules of natural and administrative justice to alter the conditions of the development permit. Ms. Alves indicated they have photos of other fencing in the area and indicated the Arnold's fencing matches with the characteristics of the neighborhood. It is a good looking fence and will increase the value and property taxes and will provide for a safe area for children. She mentioned garbage and dog waste has been thrown into the yard. Vandalism has also occurred.

Ms. Alves reiterated they would like the permit altered and felt it was within the authority of the Board to change the conditions.

Chairman Kilpatrick advised that according to the advice of the Planning Consultant and the SDAB training manual the Board does not have the authority to hear the original permit and would not give any weight to anything other than that of the stop order.

b) Presentation of Development Officer

The Development Officer referenced his report dated July 11, 2016 included in the materials provided. No questions were directed to him.

c) Presentation of Municipal Planning Commission (MPC)

No one was in attendance.

d) Presentation of anyone served notice of hearing

None.

e) Presentation of anyone claiming to be affected

None.

f) Rebuttal of Appellant/Applicant

M. Arnold apologized for building the fence higher than what was allowed, indicating it was his mistake.

g) Other

Director of Planning & Engineering clarified that the original decision on the development application was appealed to the SDAB and clarified it was the decision of the SDAB to set the allowable height of the fence to 1.2 m.

M. Arnold commented he had met with Town staff and felt that his proposal would be acceptable. Further that after the decision was rendered and after further consideration of the decision that 4' was not very high. They are concerned for the safety of their child and didn't know what else to do. He did not get legal representation to bully the application through. M. Arnold indicated he did not feel heard and thought there would be concessions granted. M. Arnold noted they have proceeded with building an addition. He noted that vandalism, theft and dog waste on their property is a concern. M. Arnold indicated they didn't understand the stop order and questioned what venue is available to consider a change to the decision.

Chairman Kilpatrick advised the decision of the SDAB is not appealable unless on a question of law or process. He commented that the SDAB can consider appeals on a case by case basis. In the case of the over height fence there was some concession granted but not to the full extent of the request. Chairman Kilpatrick commented they could reapply in a year's time; understanding this may not be what they wanted. Chairman Kilpatrick explained the Board could extend the time for compliance of the order.

M. Arnold commented they tried to follow the rules and exercised due diligence in the application process. He noted other fencing in the area that does not meet the Land Use Bylaw. He indicated he did not feel the process he had to follow for approval of the fence was for a fence but instead for building structures. M. Arnold also commented that they tried to change the address so the fence would be allowed.

Chairman Kilpatrick clarified the Board is here to hear the appeal on the stop order.

h) Recess

C. Crozier moved the Board recess and meet in Camera at 7:35 p.m.

The Appellants, Development Officer, Director of Planning & Engineering left the meeting at 7:35 p.m.

i) Decision

G. Shipley moved to confirm the stop order issued for Michael & Tiffany Arnold for Development Permit 15-DP-060, Lot 36-40, Plan 1117V (232 6 Street SE) dated June 22, 2016. Further to extend the time for compliance of said stop order to September 16, 2016. – Carried.

Reasons for Decision

The Stop Order was issued properly and in accordance with the Municipal Government Act and the Town of Redcliff Land Use Bylaw. The reason for the issuance of the Stop Order was for breach of a condition of Development Permit 15-DP-060, Lot 36-40, Plan 1117V (232 6 Street SE) and was therefore relevant. Further that reasonable time was granted for compliance of said condition.

B. Christian moved to return to regular session at 7:56 p.m.

The Appellants, Development Officer, Director of Planning & Engineering rejoined the meeting at 7:56 p.m.

Chairman Kilpatrick advised the appellant of the decision and that the written decision would be forthcoming.

5. ADJOURNMENT

G. Shipley moved the meeting be adjourned at 8:00 p.m.



D. Kilpatrick, Chairman



S. Simon, Recording Secretary